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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

3/10/86

LOK SABHA

The following Bills were introduced in Lok Sabha on the 21st February, 1986:—

BILL No. 184 OF 1985

A Bill to provide for the use of organs of deceased persons for therapeutic and transplantation purposes and for matters connected therewith.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Organ (Authority for Use for Therapeutic and Transplantation Purposes) Act, 1985.

(*2*) It extends to the Union territories only.

(*3*) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Administrator" means the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(*b*) "near relative", in relation to a deceased person, means any person related to him as spouse, parent, son, daughter brother or sister and includes any other person who is related to him—

(*i*) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees; or

(*ii*) by marriage with any of the relatives aforesaid.

Explanation.—The expression "lineal consanguinity" and "collateral consanguinity" shall have the meanings respectively assigned to them in the Indian Succession Act, 1925, and degrees of relationship shall be computed in the manner laid down in that Act; 39 of 1925.

(*c*) "organ" means parts of human or animal body used for transplantation of organs of special vital functions like speech, perception, digestion, reproduction, nasal etc. as is usually meant in physiology for the purposes of transplantation and anatomy purposes;

(*d*) "prescribed" means prescribed by rules made under this Act;

(*e*) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956, and who is enrolled on a State Medical Register as defined in clause (*k*) of that section. 102 of 1956.

Authority for removal of organ to be given by drivers before issue of licence.

3. (*1*) Every person, desirous of securing a driving licence, shall sign a donor's card giving an authority for removal of any organ, after his death, for the purpose of transplantation of such organ in a patient, whose life could be saved by such transplantation.

(*2*) The authority, responsible to issue such driving licences, shall not issue a licence to an applicant unless he signs such a donor's card.

Authority for removal of organ to be given by professionals before issue of licence.

4. Every person desirous of applying for a licence to register himself as a medical practitioner, an attorney and similar other professions or to set up a business, shall sign a donor's card as specified in sub-section (*1*) of section 3, along with the application form for securing such licence.

Permission from near relatives to remove organ from the deceased.

5. The registered medical practitioners and attending nurses shall request near relatives of a deceased person whose organ can be used for transplantation for permission to remove such organ from the dead body for saving possible lives.

Incentive schemes for relatives of the deceased who donate organs.

6. The Administrator shall introduce incentive schemes to attract relatives for donating organs of their deceased relative for transplanting in other patients.

7. After the removal of the organ from the body of the deceased person, the registered medical practitioner shall take such steps for the preservation of the organ so removed as may be prescribed.

Preservation of organ removed from the deceased.

8. (*1*) Nothing in the foregoing provisions of this Act shall be construed as rendering unlawful any dealing with the body or with any part of the body of a deceased person if such dealing would have been lawful if this Act had not been passed.

Savings.

(*2*) Neither the grant of any facility or authority for the removal of organ from the body of a deceased person in accordance with the provisions of this Act nor the removal of organ from the body of a deceased person in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Indian Penal Code.

45 of 1860.

9. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

10. (*1*) The Administrator may by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the form in which removal of organ from a dead body may be authorised;

(*b*) the preservation of removed organ;

(*c*) the publicity which may be given to the provisions and objects of this Act;

(*d*) the introduction of incentive schemes;

(*e*) any other matter which is required to be or may be prescribed.

(*3*) Every rule made under this Act shall be laid, as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The number of organ transplants in the country has soared since progress both in surgery as well as in drugs has been made. Ever since Cyclosporin A—a wonder drug—was introduced about four years ago in transplantation cases a real break-through has been made in transplantation of organs. This drug is the most effective so far in controlling the rejection of transplanted organs without destroying the body's ability to fight infection and other symptoms. As the prospect of survival has increased, the demand for organs has also increased considerably. But the availability of organs is a rarity. People seldom donate their organs for further use. Lakhs of people die each year, whose organs could be used at the hospitals that specialise in transplants. The patients are dying for want of the organs that could save their lives. If even some parts of the deceased persons can be salvaged in time and preserved in hospitals, lives of lakhs of patients could be saved from the tyranny of dialysis or liver disease or the like. The need of the hour is that while issuing licences for registration of any profession like engineering, medicine, or the like or for driving, the receipients should be required to sign a donor's card, giving an authority for removal of organ from his body after his death. Similarly, the doctors should be impressed upon to induce relatives of the deceased whose organs can be used for further use of needy patients, waiting for transplantation of such organs. For this purpose even a scheme of incentive to relatives should be started. Suitable safeguards like carrying out a battery of tests, before the organs can be removed, should be taken.

In this way, a system can be evolved in which a steady supply of organs can be ensured to doctors and death of patients, for want of transplantation of organs, can be minimized gradually.

The Bill aims to achieve the said objective.

NEW DELHI;
July 26, 1985.

MANIK SANYAL

FINANCIAL MEMORANDUM

Clause 6 of the Bill empowers the Administrator for introducing incentive schemes to relatives for donating organs of their deceased relative with a view to ensure availability of organs for transplantation. Clause 7 of the Bill provides for preservation of organ removed from dead bodies. Clause 10 of the Bill empowers the Administrator to make rules for giving publicity to the provisions of the legislation so as to attract donation of organs. A rough estimate of about rupees one crore a year or this purpose may be required from the Consolidated Fund of India to implement the provisions of the Bill when enacted.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Administrator to make rules for carrying out the purposes of the Bill. The matters in respect of which rules may be made relate to the form in which removal of organ from dead bodies may be authorised; preservation of removed organ; the manner in which publicity may be given to the provisions of the legislation; the introduction of incentive schemes and any other matter which is required to be or may be prescribed.

2. The matters in respect of which rules may be made are of administrative details and procedure, and as such, the delegation of legislative power is of normal character.

BILL No. 170 OF 1985

A bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title, and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1985.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 311.

2. In article 311 of the Constitution, in clause (*2*), for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that this clause shall not apply where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.".

Insertion of new article 311A.

3. After article 311 of the Constitution, the following new article shall be inserted, namely:—

No person employed in civil capacity under the Union or a State to be dismissed or removed without representing his case to the President.

"311A. Notwithstanding anything contained in article 311, no person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by any authority without giving him an opportunity to represent his case to the President.".

STATEMENT OF OBJECTS AND REASONS

The Supreme Court judgment up-holding the Government's right to dismiss an employee in public interest without holding any inquiry has put the interest of 12 million Government employees in jeopardy. There is no procedure to determine as to whether the dismissal is in public interest. The services of Government employees will depend on the mercy of bureaucrats. Therefore, there is an urgent need to have some provision to remedy this situation.

The proposed amendment of the Constitution gives right to the 12 million Government employees to be heard before an action is taken against them.

NEW DELHI;
August 1, 1985.

THAMPAN THOMAS

BILL No. 4 OF 1986

A Bill further to amend the Advocates Act, 1961.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Advocates (Amendment) Act, 1986.

(2) It shall come into force with effect from the 30th day of June 1986.

Amendment of section 1.

25 of 1961

2. In section 1 of the Advocates Act, 1961, (hereinafter referred to as the principal Act),—

(*i*) after sub-section (3), the following proviso shall be inserted, namely:—

"Provided that the appointed day on which section 30, comes into force, shall not be later than the 30th day of June, 1986.";

(*ii*) after sub-section (4), the following sub-section shall be added, namely:—

"(5) This Act shall, in relation to the State of Sikkim, come into force with effect from the 30th day of June, 1986."

Amendment of section 3.

3. In section 3 of the principal Act, in sub-section (*1*), for clause (e), the following clause shall be substituted, namely:—

"(e) for the States of West Bengal and Sikkim and the Union territory of Andaman and Nicobar Islands, to be known as the Bar Council of West Bengal and Sikkim; and"

Amendment of section 4.

4. In section 4 of the principal Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The term of office of a member of the Bar Council of India elected by the State Bar Council shall be two years from the date of his election or till he ceases to be a member of the State Bar Council, whichever is earlier."

Amendment of section 36B.

5. In section 36B of the principal Act,—

(*i*) in sub-section (*1*), for the words "one year", the words "two years", shall be substituted;

(*ii*) after sub-section (*1*), the following proviso shall be added, namely:—

"Provided that all such proceedings transferred to the Bar Council of India from the State Bar Council shall be disposed of by the Bar Council of India within a period of two years from the date of such transfer."

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to bring the legal practitioners of Sikkim within the ambit of the Advocates Act, 1961. Though Sikkim is a State of India there is no State Bar Council there.

Elections of office bearers of State Bar Councils are held after every two years. The elected office bearers of State Bar Council can remain in office for two years. It is considered appropriate that the member elected by each State Bar Council to represent the State Bar Council in the Bar Council of India is also elected alongwith other office bearers of the State Bar Council for a term of two years.

Section 30 of the Advocates Act, 1961 confers upon the advocates the right to practice throughout the territories to which the Act extends. Under section 29 of that Act, only advocates are entitled to practise the profession of law. Section 33 provides that only advocates are entitled to practice in any Court or before any authority or person. Though the intention of the then Legislature is quite clear, the important right of practise meant to be conferred on the Advocates has so far been denied to them because of the fact that section 30 of the Act has not yet come into force. Taking advantage of this, some State Governments have issued executive orders prohibiting representation by lawyers before certain courts, persons or authorities. Citizens of India are also being denied the right of being represented by advocates in different Administrative Tribunals and Appellate Authorities. Denial of this valuable right has rendered the very object of this legislation in the nugatory. In order to give meaningful effect to the provisions of sections 29 and 33 it is essential that section 30 of the Act is brought in force. It is, therefore, suggested that section 30 of the Act should come into force at an early date so that the advocates may have the rights guaranteed to them by the Advocates Act, 1961.

The time of one year allowed to State Bar Councils for disposal of disciplinary proceedings is not sufficient. Transfer of proceedings to the Bar Council of India often makes the proceedings cumbersome, time consuming and expensive as in most cases the Bar Council has to start proceedings *de-novo*. Moreover since there is no time limit for disposal of disciplinary proceedings by the Bar Council of India, disposal of disciplinary proceedings by them is usually delayed causing inconveniences to both the complainants as well as the accused.

The Bill seeks to remove the above lacunae in the Act.

NEW DELHI;

October 24, 1985. PRIYA RANJAN DAS MUNSHI.

BILL No. 1 OF 1986

A Bill further to amend the Hindu Marriage Act, 1955.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Hindu Marriage (Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 24.

2. In section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as the principal Act), 25 of 1955.—

(*i*) after the words "has no independent income sufficient for her or his support", the words, "for the proper maintenance and education of the children" shall be inserted;

(*ii*) after the words "order the respondent to pay to the petitioner", the words "sufficient money to bear the expenses for the education and maintenance of the children," shall be inserted.

Amendment of section 25.

3. In section 25 of the principal Act,—

(*i*) in sub-section (1), after the words "order that the respondent shall", the words "deposit a reasonable amount as fixed deposit in a bank for higher education of the children upto graduation level and for the marriage(s) of the daughter(s) and" shall be inserted;

(*ii*) in sub-section (2), the following proviso shall be added at the end, namely:—

"Provided that while varying, modifying or rescinding any such order the court shall not vary or rescind the order regarding money deposited as fixed deposit in a bank for higher education of the children upto graduation level and for the marriage(s) of the daughter(s).".

STATEMENT OF OBJECTS AND REASONS

The Hindu Marriage Act, 1955 provides for relief to the respondent in divorce and other proceedings.

There is, however, no specific provision providing for the higher education of children and marriages of the daughters.

The Bill seeks to remove these lacunae in the Hindu Marriage Act so as to ensure that even in case of divorce the children do not have to suffer due to lapses on the part of their parents.

NEW DELHI;
October 24, 1985.

PRIYA RANJAN DAS MUNSHI

BILL No. 5 OF 1986

A Bill to provide for payment of pension to the farmers in old age or on becoming subject to total disablement

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Farmers Old Age Pension Act, 1986.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definition.

(*a*) "farmer" means a farmer who owns not more than five acres of wet land or ten acres of partially wet and dry land or twenty-five acres of dry land without assured rainfall and area which is identified as drought-prone area without any limit of holding;

(*b*) "fund" means the Farmers Old Age Pension Fund; and

(c) "total disablement" means such disablement, whether of permanent or temporary nature, which incapacitates a farmer for all work which he was capable of performing at the time of accident or disease which caused his disablement.

Payment of pension to farmers in old age.

3. Every farmer, after reaching the age of sixty years or on becoming subject to total disablement as a result of an accident or disease, shall be paid a monthly pension which shall not be less than rupees two hundred.

Constitution of Farmers Old Age Pension Fund.

4. The Central Government shall constitute a fund to be called the "Farmers Old Age Pension Fund" in which fifty per cent of the amount shall be contributed by the Central Government and the remaining fifty per cent by the State Governments in such proportions, as may be determined by the Central Government.

Power to make rules.

5. (*1*) The Central Government may make rules for carrying out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or amendment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The majority of the farmers in our country have small and uneconomic land holdings with no assured rainfall or other means of irrigation. They are totally or partially dependent on seasonal rainfall. In case of failure of rains and subsequent damage to their crops by drought or floods, they do not have any alternative means of livelihood for survival. There are virtually no social security schemes for this vast unorganised sector of the population. The living conditions of such farmers become all the more pitiable in their old age or when they are subject to total disablement by accidents or disease.

It is necessary in the national interest that a modest pension should be paid to such farmers in their old age or in case of total disablement.

Hence this Bill.

NEW DELHI;
December 4, 1985.

BALASAHEB VIKHE PATIL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for payment of pension to a farmer. Clause 4 of the Bill provides for constitution of a Farmers Old Age Pension Fund in which fifty per cent of the amount shall be contributed by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty crores per annum.

It is also likely to involve a non-recurring expenditure of about rupees five crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Act. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 3 OF 1986

A Bill to make military training compulsory for all able-bodied persons.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Compulsory Military Training Act, 1986.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Compulsory military training for all able-bodied persons.

2. Military training, for a period of not less than one year, shall be compulsory for all able-bodied persons who have attained the age of eighteen years:

Provided that persons enrolled in the Territorial Army, the Border Security Force, the Central Reserve Police Force, the Central Industrial Security Force, the Indo-Tibetan Border Police or any other paramilitary force, shall be exempted from the provisions of this section.

Power to formulate scheme and establishment of institutions.

The Central Government shall formulate a scheme and establish necessary institutions to give effect to the provisions of section 2.

STATEMENT OF OBJECTS AND REASONS

Military training instils a sense of discipline and develops character, mental robustness and physical fitness in the youth and makes them better citizens. It also enables the State to draft the youth to second line of defence in times of threats to the security of the country and for relief operations during the national calamities like floods, cyclones earth-quakes, famines, etc.

No doubt there is provision for N.C.C. training in some schools and colleges but the scheme in operation is neither comprehensive nor compulsory for the students.

The country needs a comprehensive scheme under which all able-bodied persons should undergo military training for a specified period, before they take up their respective vocations.

Hence this Bill.

NEW DELHI;
December 5, 1985.

UTTAM RATHOD

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for introducing compulsory military training to all able-bodied persons. Clause 3 provides for establishment of several institutions for imparting military training and these institutions have to be provided with necessary equipments. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. The recurring expenditure for the scheme may be to the tune of rupees ten crores per annum.

The scheme is also likely to involve a non-recurring expenditure of rupees ten crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides for formulating a scheme for imparting compulsory military training to all able-bodied persons. The scheme has to be administered by the Central Government. The delegation of legistative power is of a normal procedural character.

SUBHASH C. KASHYAP,
Secretary General.

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